

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

STEVEN MERCIER,

Plaintiff,

-against-

CELLCO PARTNERSHIP D/B/A VERIZON  
WIRELESS, and MARK LAVORGNA,  
*Individually*, and MICHELE MCKITRICK,  
*Individually*,

Defendants.

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ECF CASE

12 Civ. 2064 (AKH)

NOTICE OF MOTION TO  
DISMISS THE AMENDED  
COMPLAINT

*7/31/12  
memorandum, on 7/31/12, for filing  
complaint and as preliminary prior to  
Answer. 10/3/12*

*OK/Hellerstein*

**PLEASE TAKE NOTICE** that upon the Amended Complaint, the

Court's July 3, 2012 Order, Docket No. 11, the supporting memorandum of law and all prior proceedings had herein, Defendants Cellco Partnership d/b/a Verizon Wireless ("Verizon"), Michele McKitrick ("McKitrick") and Mark Lavorgna ("Lavorgna") (collectively, "Defendants"), will move the Court before the Honorable Alvin K. Hellerstein in the United States Courthouse, 500 Pearl Street, New York, on a date and time to be determined by the Court, for an Order dismissing the Amended Complaint in its entirety for failure to comply with Fed. R. Civ. P. 8(a) and, therefore, failure to state a claim upon which relief can be granted under Fed. R. Civ. P. 12(b)(6), or, in the alternative, dismissing the First Cause of Action to the extent it alleges a claim for "interference" under the Family and Medical Leave Act and the Fourth, Fifth, Sixth, Seventh, and Eighth Causes of Action to the extent that such claims are based on retaliation for the whistleblowing previously alleged in the Initial Complaint, and for such other relief as the Court deems just and proper.

**PLEASE TAKE FURTHER NOTICE** that, pursuant to Local Rule 6.1(b), answering papers, if any, are to be filed and served within 14 days after service of the moving papers and that reply papers, if any, are to be filed and served within 7 days after service of the answering papers.

Dated: New York, New York  
July 31, 2012

Respectfully submitted,

KAUFF MCGUIRE & MARGOLIS LLP

By:

  
Harlan J. Silverstein (HJS-4114)  
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*Attorneys for Defendants*